



Billing Code: 5001-06

DEPARTMENT OF DEFENSE

Office of the Secretary

Science and Technology Reinvention Laboratory (STRL) Personnel Management

Demonstration Projects

AGENCY: Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) (DASD (CPP)), Department of Defense (DoD).

ACTION: Notice of proposed amendment to demonstration project plans.

SUMMARY: Section 342(b) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 1995, as amended by section 1009 of the NDAA for FY 2000 and section 1114 of the NDAA for FY 2001, authorizes the Secretary of Defense to conduct personnel demonstration projects at DoD laboratories designated as STRLs. This proposed amendment adds waivers to current STRL Federal Register Notices (FRN) for the Army Research Laboratory (ARL); the Army Aviation and Missile Research, Development, and Engineering Center (AMRDEC); the Army Engineer Research and Development Center (ERDC); the Army Medical Research and Materiel Command (MRMC); the Army Communications-Electronics Research, Development, and Engineering Center (CERDEC); and the Naval Research Laboratory (NRL) to facilitate the use of flexibilities in their project plans by permitting terminations during extended probationary periods.

DATES: This amendment may not be implemented until a 30-day comment period is provided, comments addressed, and a final Federal Register notice published. To be considered, written comments must be submitted on or before **[insert date 30 days after date of publication in the**

Federal Register]. Authorities impacted by this FRN may not be applied retroactively and will be applied only to those personnel hired on/after the publication date of this FRN.

ADDRESSES: Send comments on or before the comment due date by mail to Mr. William T. Cole, Defense Civilian Personnel Advisory Services, Non-Traditional Personnel Programs (DCPAS-NTPP), Suite 05L28, 4800 Mark Center Drive, Alexandria, VA 22350-1100; by e-mail to william.cole@cpms.osd.mil; or by fax to 571-372-1559.

FOR FURTHER INFORMATION CONTACT:

Department of the Army:

- Army Research Laboratory (ARL): Program Manager, ARL Personnel Demonstration Project, AMSRD-ARL-O-HR, 2800 Powder Mill Road, Adelphi, MD 20793-1197;
- Aviation and Missile Research, Development, and Engineering Center (AMRDEC): Special Assistant for Laboratory Management, AMRDEC, 5400 Fowler Road, Redstone Arsenal, AL 35898-5000;
- Engineer Research and Development Center (ERDC): Personnel Demonstration Project Manager, U.S. Army Engineer Research and Development Center, 3909 Halls Ferry Road, Vicksburg, MS 39180-6199;
- Medical Research and Materiel Command (MRMC): Director, Civilian Personnel Advisory Center, Medical Research and Materiel Command, 1541 Porter Street, Fort Detrick, MD 21702-5000;
- Communications-Electronics Research, Development, and Engineering Center (CERDEC): CERDEC Personnel Demonstration Project Administrator, C4ISR Campus Building 6002, Room D3120, ATTN: RDER-DOS-ER, Aberdeen Proving Ground, MD 21005.

Department of the Navy:

- Naval Research Laboratory (NRL): Director, Strategic Workforce Planning, Naval Research Laboratory, 4555 Overlook Avenue SW, Washington, DC 20375-5320.

Department of Defense:

- Defense Civilian Personnel Advisory Services, Non-Traditional Personnel Programs (DCPAS-NTPP), Suite 05L28, 4800 Mark Center Drive, Alexandria, VA 22350-1100.

SUPPLEMENTARY INFORMATION:

A. Background

The conventional 1-year probationary period does not allow supervisors an adequate period of time to fully evaluate the contribution and conduct of newly hired personnel. STRLs have included flexibilities allowing up to a three year probationary period. These flexibilities were fully utilized until the United States Court of Appeals for the Federal Circuit decided two cases, *Van Wersch v. Department of Health & Human Services*, 197 F.3d 1144 (Fed. Cir. 1999), and *McCormick v. Department of the Air Force*, 307 F.3d 1339 (Fed. Cir. 2002), which affected the STRLs ability to fully utilize their extended probationary periods.

B. Modifications

The following FRNs are amended under the authority of section 1114 of the NDAA for Fiscal Year 2001:

1. U.S. Army Research Laboratory (ARL) –

a. Add the following to section **IX. Required Waivers to Law and Regulation:**

“Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii); Adverse Actions – Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except for those with veterans’ preference.”

b. Add the following as the final paragraph to section **IX. Required Waivers to Law and Regulation:**

“Part 752, sections, 752.201, and 752.401: Principal statutory requirements and coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”

2. Army Aviation and Missile Research, Development and Engineering Center (AMRDEC).

a., Add the following to section **IX. Required Waivers to Law and Regulation:**

“Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii); Adverse Actions – Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except for those with veterans’ preference.”

b. Add the following as the final paragraph to section **IX. Required Waivers to Law and Regulation:**

“Part 752, sections, 752.201, and 752.401: Principal statutory requirements and coverage.

Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”.

3. U.S. Army Engineer Research and Development Center (ERDC) –

a. Add the following to section IX. Required Waivers to Law and Regulation:

“Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii); Adverse Actions – Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except for those with veterans’ preference.”

b. Add the following to section IX. Required Waivers to Law and Regulation:

“Part 752, sections, 752.201, and 752.401: Principal statutory requirements and coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”

4. U.S. Army Medical Research and Materiel Command (MRMC) –

a. Add the following to section IX. Required Waivers to Law and Regulation:

“Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii); Adverse Actions – Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action

procedures for those individuals serving a probationary period under an initial appointment except for those with veterans' preference."

b. Add the following as the final paragraph to section **IX. Required Waivers to Law and Regulation:**

"Part 752, sections 752.201, and 752.401: Principal statutory requirements and coverage.

Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans' preference."

5. U.S. Army Communications- Electronics Research, Development and Engineering Center (CERDEC) –

a. Add the following to section **IX. Required Waivers to Law and Regulation:**

"Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii); Adverse Actions – Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except for those with veterans' preference."

b. Add the following to section **IX. Required Waivers to Law and Regulation:**

"Part 752, sections 752.201, and 752.401: Principal statutory requirements and coverage.

Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans' preference."

6. U.S. Naval Research Laboratory (NRL) –

a. Add the following as the final box on the left side of **Appendix A: Required**

Waivers to Law and Regulation chart:

“Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii); Adverse Actions – Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except for those with veterans’ preference.”

b. Add the following on the right side of the information entered in 6.a. above to

Appendix A: Required Waivers to Law and Regulation chart:

“Part 752, sections, 752.201, and 752.401: Principal statutory requirements and coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans’ preference.”

Dated: October 31, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer,

Department of Defense.

[FR Doc. 2012-26985 Filed 11/19/2012 at 8:45 am; Publication Date: 11/20/2012]